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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,582	07/23/2003	Reiner Bartsch	2701	7748

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EXAMINER	
DEHGHAN, QUEENIE S	
ART UNIT	PAPER NUMBER
1791	

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10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/625,582	BARTSCH, REINER	
	Examiner	Art Unit	
	Queenie Dehghan	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 August 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-16 and 32-42* is/are pending in the application.

4a) Of the above claim(s) *11-16* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *33-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 14, 2007 has been entered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 32-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 32-33, 36-37, 40 and 42 recite at least one alkali compound, which does not appear to be explicitly disclosed in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 32-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 32 and 36 recite the limitation "during said thermal processing" in lines 13 and 12, respectively. There is insufficient antecedent basis for this limitation in the claim. It is also unclear if the thermal processing refers to the cutting step, opening step or both.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 32-35 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritt et al. (4,516,998) in view of Bennett et al. (3,985,535). Ritt et al. disclose a method for making small glass containers from hollow glass tube that is clamped in a vertical orientation, wherein the tube has an interior surface, an open upper end and a lower end. Furthermore, Ritt et al. disclose thermally cutting the tube to length, forming a closed bottom at the lower end of the tube, heating the lower end of the hollow glass tube to thermally open the bottom and forming a mouth of the glass container at the lower end (figure 1, col. 1 lines 10-52). Ritt et al. further disclose the partially closing of the of the tube at the open upper end by sealing the upper end and

creating a dot shaped opening in the upper end. Doing so produces an overpressure during the heating of the lower end, but preventing excessive overpressure in the tube (col. 2 lines 1-9, 40-50). Additionally Ritt et al. disclose manufacturing small glass containers, such as ampoules with the steps mentioned above in order to prevent contamination from volatile glass components that are blown into the interior of the glass tube during thermal processing with a jet flame (col. 1 lines 53-59). It would have been obvious to one of ordinary skill in the art at the time of the invention to expect that volatile glass components encompasses evaporated alkali compounds, especially since it is common for a glass preform to contain alkali compounds in its composition.

7. This is further exemplified by Bennett et al. Bennett et al. disclose ampoules that are typically made of an alkali-metal containing glass, such as alunimosilicate (col. 1 lines 60-63). In using the aluminosilicate glass of Bennett et al., Ritt et al. process would reduce the contamination of the alkali compounds resulting from thermal processing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to expect the small glass containers of Ritt et al. to be made of aluminosilicate glass because Bennett et al. has demonstrated that is known in the art to utilize such a glass composition for the making of ampoules and for the strength that aluminosilicate glass provides to the ampoules made.

8. Additionally, as mentioned above, Ritt et al. disclose a partial closing of the tube at the upper end with a through-going opening so that an overpressure is produced by constricting a gas flow path through said open upper end during said thermal processing while keeping said open upper end sufficiently open so that an excessive

overpressure that would otherwise damage the glass tube is not produced. Although a stopper is not specifically used as the sealing/constricting means, the same effect is achieved by the closed off end with an opening as that of a stopper with a through-going opening. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize known methods or means, such as a stopper with a through-going opening, as an equivalent means for sealing one end of a tube, while keeping the end sufficiently open so an excessive overpressure is not produced because stoppers with through-going openings are commonly used for sealing up an end of tube.

9. Claims 36-39 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritt et al. (4,516,998) in view of Bennett et al. (3,985,535) and Schul (4,010,022). Ritt et al. disclose a method for making small glass containers, such as ampoules, from hollow glass tube that is clamped in a vertical orientation, wherein the tube has an interior surface, an open upper end and a lower end. Furthermore, Ritt et al. disclose thermally cutting the tube to length, forming a closed bottom at the lower end of the tube, heating the lower end of the hollow glass tube with a jet flame to thermally open the bottom and forming a mouth of the glass container at the lower end (figure 1, col. 1 lines 10-52). Ritt et al. also disclose the importance of creating an overpressure in the tube in order to prevent contamination from volatile glass components that are blown into the interior of the glass tube during thermal processing with a jet flame (col. 1 lines 53-59, col. 2 lines 1-9, 40-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to expect that volatile glass components encompasses

evaporated alkali compounds, especially since it is common for a glass preform to contain alkali compounds in its composition.

10. This is further exemplified by Bennett et al. Bennett et al. disclose ampoules that are typically made of an alkali-metal containing glass, such as alunimosilicate (col. 1 lines 60-63). In using the aluminosilicate glass of Bennett et al., Ritt et al. process would reduce the contamination of the alkali compounds resulting from thermal processing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to expect the small glass containers of Ritt et al. to be made of aluminosilicate glass because Bennett et al. has demonstrated that is known in the art to utilize such a glass composition for the making of ampoules and for the strength that aluminosilicate glass provides to the ampoules made.

11. As mentioned above, Ritt et al. disclose the importance of creating an overpressure in the tube in order to prevent contamination from volatile glass components that are blown into the interior of the glass tube during thermal processing. Although Ritt et al. teaches creating an overpressure by sealing one end of the tube with an opening, one of ordinary skill in the art would recognize that there are other ways to accomplish an overpressure in the tube. Schul teaches blowing gas into a glass tube being processed in order to create an overpressure in the interior of the tube (col. 2 lines 65-68). Although Schul teaches an overpressure in a tube to accomplish a different goal, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the known method of Schul of blowing gas into a tube

in order to create the overpressure of Ritt et al. in order to prevent contamination of the interior surface, as desired by Schul.

Response to Arguments

12. Applicant's arguments filed August 14, 2007 have been fully considered but they are not persuasive.

13. In regards to applicant's argument #2 with respect to Bennett, the applicant argues that Bennett does not disclose the contamination of an inner surface of the tube by alkali compounds or the prevention of it. As discussed in the rejections, Bennett was not relied up for the teaching of a contamination or the prevention of the contamination, but instead for the exemplifying the commonality of glass preform used for vial production to contain alkali compounds.

14. In regards to applicant's argument #2 with respect to Schul and Mueller, the applicant argues that neither Schul nor Mueller uses a stopper for creating an overpressure. As mentioned above, the Schul and Mueller references were used to teach the blowing of a gas to create an overpressure, not the use of a stopper. Furthermore, the applicant argues that the overpressures produced by Schul and Mueller are for a different purpose. Schul and Mueller taught a know method for creating an overpressure to accomplish a goal already disclosed by Ritt et al, that is to prevent the contamination of the inner surface of a glass tube with volatile glass compounds. Lastly, the applicant argues that the references relied upon do not disclose

a mechanical device to produce the overpressure, such as a fan or blower. Neither does the applicant.

15. In regards to the applicant's arguments regarding Leber, since the Leber reference has been withdrawn, the arguments are moot.

Response to Supplemental Amendment

The supplemental reply filed on October 25, 2007 was not entered because supplemental replies are not entered as a matter of right except as provided in 37 CFR 1.111(a)(2)(ii). The supplemental reply is clearly not limited to placement of the application in condition for allowance or the simplification of issues.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Queenie Dehghan whose telephone number is (571)272-8209. The examiner can normally be reached on Monday through Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Q Dehghan